

§ 11.3

17 CFR Ch. I (4–1–02 Edition)

grant such authority to any Commission employee under the direction of the Executive Director.

(Secs. 2a(11) and 6(b) of the Act, 7 U.S.C. 4a(j) and 15 (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95–405, sec. 13, 92 Stat. 871 (1978))

[41 FR 29799, July 19, 1976, as amended at 43 FR 55348, Nov. 28, 1978; 60 FR 54802, Oct. 26, 1995; 61 FR 1709, Jan. 23, 1996; 62 FR 17702, Apr. 11, 1997; 63 FR 5233, Feb. 2, 1998]

§ 11.3 Confidentiality of investigations.

All information and documents obtained during the course of an investigation, whether or not obtained pursuant to subpoena, and all investigative proceedings shall be treated as non-public by the Commission and its staff except to the extent that (a) the Commission directs or authorizes the public disclosure of the investigation; (b) the information or documents are made a matter of public record during the course of an adjudicatory proceeding; or (c) disclosure is required by the Freedom of Information Act, 5 U.S.C. 552, and the rules adopted by the Commission thereunder, 17 CFR part 145. Procedures by which persons submitting information to the Commission during the course of an investigation may specifically seek confidential treatment of information for purposes of Freedom of Information Act disclosure are set forth in 17 CFR 145.9. A request for confidential treatment of information for purposes of the Freedom of Information Act shall not, however, prevent disclosure for law enforcement purposes or when disclosure is otherwise found appropriate in the public interest and permitted by law.

§ 11.4 Subpoenas.

(a) *Issuance of subpoenas.* The Commission or any member of the Commission or of its staff who, by order of the Commission, has been authorized to issue subpoenas in the course of a particular investigation may issue a subpoena directing the person named therein to appear before a designated person at a specified time and place to testify or to produce documentary evidence, or both, relating to any matter under investigation.

(b) *Authorization to issue subpoenas.* An order of the Commission author-

izing one or more members of the Commission or of its staff to issue subpoenas in the course of a particular investigation shall include:

(1) A general description of the scope of the investigation;

(2) The authority under which the investigation is being conducted; and

(3) A designation of the members of the Commission or of its staff authorized by the Commission to issue subpoenas.

(c) *Service.* Service of subpoenas issued for investigative purposes shall be effected in the following manner:

(1) *Service upon a natural person.* Delivery of a copy of a subpoena to a natural person may be effected by

(i) Handing it to the person;

(ii) Leaving it at his office with the person in charge thereof or, if there is no one in charge, by leaving it in a conspicuous place therein;

(iii) Leaving it at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein;

(iv) Mailing it by registered or certified mail to him at his last known address; or

(v) Any other method whereby actual notice is given to him.

(2) *Service upon other persons.* When the person to be served is not a natural person, delivery of a copy of the subpoena may be effected by (i) handing it to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; (ii) mailing it by registered or certified mail to any such representative at his last known address; or (iii) any other method whereby actual notice is given to any such representative.

(d) *Witness fees and mileage.* Witnesses appearing pursuant to subpoena shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

§ 11.5 Transcripts.

Transcripts of testimony taken in the course of an investigative proceeding shall be recorded solely by an official reporter or other person or by other means authorized by the Commission or by a member of the Commission or its staff conducting the investigation for the Commission.